

APPEAL NO. 032339
FILED OCTOBER 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 7, 2003. The hearing officer determined that (1) the compensable injury of _____, extends to and includes the diagnoses of post-traumatic stress disorder or syndrome, anxiety, and depression; (2) the respondent (claimant) reached maximum medical improvement (MMI) on October 27, 2002; and (3) the claimant's impairment rating (IR) is 22% as certified by the designated doctor appointed by the Texas Workers' Compensation Commission (Commission). The appellant (carrier) appealed these determinations essentially on sufficiency of the evidence grounds. The claimant urges affirmance.

DECISION

Affirmed.

EXTENT OF INJURY

The hearing officer did not err in determining that the compensable injury of _____, extends to and includes the diagnoses of post-traumatic stress disorder or syndrome, anxiety, and depression. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

MMI/IR

The hearing officer did not err in determining that the claimant reached MMI on October 27, 2002, with a 22% IR as certified by the Commission-appointed designated doctor. The carrier contends that the hearing officer erred in giving presumptive weight to the designated doctor's report because the claimant's psychological conditions are not permanent and, therefore, not ratable under the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. In the alternative, the carrier argues that the designated doctor's report is against the great weight of the other medical evidence and requests adoption of its required medical examination (RME) doctor's certification. Whether a compensable injury results in permanent impairment and whether the designated doctor's report is contrary to the great weight of other medical evidence are

questions of fact for the hearing officer to resolve. See Texas Workers' Compensation Commission Appeal No. 950104, decided March 7, 1995. In view of the evidence, the hearing officer could find that the claimant's conditions were assessed to be permanent conditions. Additionally, we view the carrier RME doctor's certification as a difference in medical opinion which does not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. Accordingly, we cannot conclude that the hearing officer's MMI/IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge